

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KENT D. HARRIS  
Deputy Attorney General  
4 State Bar No. 144804  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-7859  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-471*

13 **LORI EDWINA PERRY, AKA**  
14 **LORI E. DEY-BARGER**  
4567 Silverado Trail  
Calistoga, California 94515

**A C C U S A T I O N**

15 **Registered Nurse License No. 580881**

16 Respondent.

17  
18 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive  
21 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

22 **Registered Nurse License**

23 2. On or about May 15, 2001, the Board issued Registered Nurse License Number  
24 580881 to Lori Edwina Perry, also known as Lori E. Dey-Barger ("Respondent"). The Registered  
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on November 30, 2014, unless renewed.

27 ///

28 ///

## JURISDICTION

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

## STATUTORY PROVISIONS

6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct. . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

///

///

///

1 (c) Be convicted of a criminal offense involving the prescription, consumption,  
2 or self-administration of any of the substances described in subdivisions (a) and (b) of  
3 this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

4 **COST RECOVERY**

5 8. Code section 125.3 provides, in pertinent part, that the Board may request the  
6 administrative law judge to direct a licentiate found to have committed a violation or violations of  
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Conviction of a Crime)

11 9. Respondent is subject to discipline under Code section 2761, subdivision (f), in that  
12 on or about April 26, 2012, in the case of *People v. Lori Edwina Perry*, (Napa County, Napa  
13 Superior Court, 2012, Case No. CR 160831), the court convicted Respondent on her plea of nolo  
14 contendere of violating Vehicle Code section 23152, subdivision (a) (driving under the influence  
15 of alcohol), a crime that is substantially related to the qualifications, functions or duties of a  
16 licensed registered nurse. The circumstances of the crime are that on or about February 27, 2012,  
17 Respondent collided with a parked vehicle while driving with a blood alcohol level of 0.31%.

18 **SECOND CAUSE FOR DISCIPLINE**

19 (Dangerous Use of Alcohol)

20 10. Respondent is subject to discipline under Code section 2761, subdivision (a), on the  
21 grounds of unprofessional conduct as defined in Code section 2762, subdivision (b), in that on or  
22 about February 27, 2012, Respondent used an alcoholic beverage to an extent or in a manner  
23 dangerous or injurious to herself and the public when she operated a vehicle with a blood alcohol  
24 level of 0.31%.

25 **THIRD CAUSE FOR DISCIPLINE**

26 (Conviction Involving the Consumption of Alcohol)

27 11. Respondent is subject to discipline under Code section 2761, subdivision (a), on the  
28 grounds of unprofessional conduct as defined in Code section 2762, subdivision (c), in that on or

1 about February 27, 2012, Respondent was convicted of a crime involving the consumption of  
2 alcohol, as set forth in paragraph 9, above.

3 PRAYER

4 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 580881, issued to Lori  
7 Edwina Perry, also known as Lori E. Dey-Barger;

8 2. Ordering Lori Edwina Perry, also known as Lori E. Dey-Barger, to pay the Board of  
9 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
10 pursuant to Code section 125.3; and,

11 3. Taking such other and further action as deemed necessary and proper.

12  
13 DATED: December 10, 2012 *Louise R. Bailey*  
14 *for* LOUISE R. BAILEY, M.ED., R.N.  
15 Executive Officer  
16 Board of Registered Nursing  
17 State of California  
18 Complainant

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
SA2012107644  
10973586.doc